



Also, K.S.A. 44-551, as amended by S.B. 59 (1995), empowers the Appeals Board to review orders of the administrative law judges where it is alleged they have exceeded their jurisdiction and authority.

Because the issue presented here is not one enumerated in K.S.A. 44-534a, nor did the Administrative Law Judge exceed his jurisdiction and authority in denying respondent's request, the issue is not reviewable under either of the above statutes. Nothing herein is intended to comment upon respondent's right to request a preliminary hearing to determine claimant's entitlement to benefits.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark entered in this proceeding on March 23, 1995, remains in full force and effect and this review is dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July, 1995.

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BOARD MEMBER

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**DISSENT**

I respectfully dissent from the opinion of the majority finding the Appeals Board to be without jurisdiction to review the Order in question. I would find the Board has jurisdiction pursuant to K.S.A. 44-551, as amended by S.B. 59 (1995). Because the Benefit Review Officer was without jurisdiction to enter his Order of January 11, 1995, the Administrative Law Judge exceeded his jurisdiction in affirming the Benefit Review Officer's Order. The evidence shows that the respondent and insurance carrier were not given notice of the benefit review conference. The Benefit Review Officer was not aware of that fact when he entered his Order granting the relief requested by the claimant pursuant to K.S.A. 44-5,111(e). The Administrative Law Judge should have found the Order of the Benefit Review Officer to constitute a denial of due process to the respondent and insurance carrier. By affirming the Benefit Review Officer's Order, the Administrative Law Judge likewise denied respondent and insurance carrier their rights to a fair hearing and due process of law. I would reverse and remand this matter to the Administrative Law Judge for a full hearing on its merits.

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**BOARD MEMBER**

- c:     David H. Farris, Wichita, Kansas  
       Robert G. Martin, Wichita, Kansas  
       John D. Clark, Administrative Law Judge  
       David A. Shufelt, Acting Director